

ORDINANCE NO. 10-16

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA REVISING THE CAPITAL IMPROVEMENT ELEMENT TO THE HIALEAH, FLA., COMPREHENSIVE PLAN 2003-2015; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on January 28, 2010, the Planning and Zoning Board recommended approval of the revision of the Capital Improvement Element to the Hialeah, Fla., Comprehensive Plan 2003-2015; and

WHEREAS, the Department of Community Affairs, has administratively waived the transmittal of the text amendments to the Capital Improvement Element of the Hialeah, Fla., Comprehensive Plan 2003-2015 to the Department of Community Affairs for its preliminary sufficiency review but will consider its sufficiency pursuant to final adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The Mayor and the City Council of the City of Hialeah, Florida hereby approve the revisions to the Capital Improvement Element to the Hialeah, Fla., Comprehensive Plan 2003-2015 The revised Capital Improvement Element (Exhibit "1"), which are made a part hereof for all purposes, shall be on file in the Office of the City Clerk.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

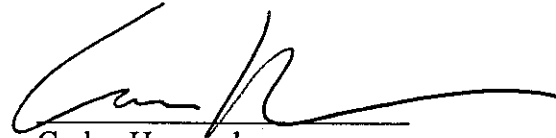
Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the

Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 23rd day of February, 2010.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Carlos Hernandez
Council President

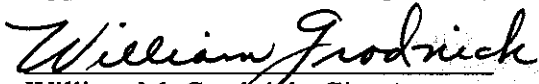
Attest:

Approved on this ____ day of _____, 2010.

Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

VETOED

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez voting "Yes", Councilmember Yedra absent.

Mayor Julio Robaina vetoed Ordinance No. 10-16. There was no motion to override the Mayor's veto; therefore, the veto stands.

Julio Robaina

Mayor

Carlos Hernandez

Council President

Jose Yedra

Council Vice President



Council Members

Jose F. Caragol

Vivian Casals-Muñoz

Katharine E. Cue

Isis Garcia-Martinez

Luis Gonzalez

City of Hialeah

March 9, 2010

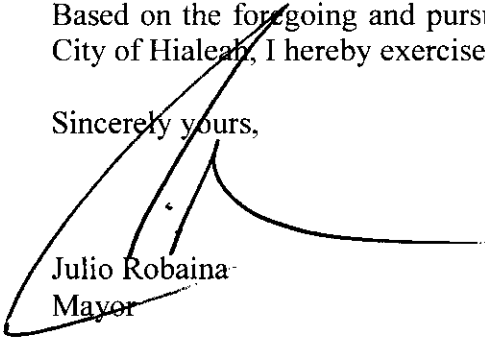
Dear Members of the Hialeah City Council:

In accordance with the authority vested in the Mayor of the City of Hialeah, Florida, pursuant to Hialeah Charter § 2.01(a)(7), I hereby exercise my veto over Hialeah, Fla., Ordinance 10-16 that was passed by the Hialeah City Council on February 23, 2010 for the following reasons and objections:

1. Hialeah, Fla., Ordinance 10-16 revised the Capital Improvement Element of the Hialeah, Fla., Comprehensive Plan 2003-2015. I have been advised that *The Miami Herald* failed to publish the correct legal notice of the public hearing prior to the adoption of this ordinance, despite the City's request to publish the notice and confirmation of receipt of such request.
2. The failure to timely publish the proper notice in the required format violates state law and accordingly, creates a procedural defect that cannot be overlooked. Accordingly, I have no choice but to veto this ordinance.
3. Upon publication of proper notice, this deficiency can be corrected. In any event, I have no objections to the revisions of the Capital Improvement Element as proposed.

Based on the foregoing and pursuant to the powers granted me under the Charter of the City of Hialeah, I hereby exercise my right to veto Hialeah, Fla., Ordinance 10-16.

Sincerely yours,



Julio Robaina
Mayor